IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 5TH JULY 2007 / 14TH ASHADHA 1929

Bail Appl..No. 4049 of 2007()

CRIME NO.224 OF 2007 OF PAYYOLY POLICE STATION OF KOZHIKODE RURAL DISTRICT

: PETITIONER/ACCUSED

SANTHOSH KUMAR P.K., S/O. SWAMY KUTTY,
PULIYULLA KANDIYIL HOUSE, P.O.KOZHIKODE REC.,
KOZHIKODE.

BY ADV. SRI.K.RAKESH ROSHAN
SRI.I.K.RAJU
SMT.THUSHARA.V

RESPONDENTS: COMPLAINANT

STATE OF KERALA, REP. BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.
(REPRESENTING S.H.O. PAYYOLY POLICE STATION
IN CRIME NO.224/07).

BY PUBLIC PROSECUTOR SRI.P.N.SUKUMARAN

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 05/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

B.A.No.4049 of 2007

Dated this the 5th day of July, 2007

ORDER

Application for anticipatory bail. Petitioner is the 2nd accused in a crime registered under Section 379 I.P.C. Altogether there are 3 accused persons. In the F.I statement, names of two persons are given, it is submitted. The petitioner's name figures in the F.I.R.

2. The crux of the allegations is that the petitioner along with co-accused had committed theft of kerosene. They were allegedly removing the stolen kerosene in a jeep. They were intercepted by the police officials. The petitioner took to his heels and could not be apprehended. The 1st accused was arrested, from whom, the details of the petitioner was ascertained and incorporated in the F.I.R itself. The petitioner has not been arrested so far.

3. The learned counsel for the petitioner submits that the allegations against the petitioner are false. He may be granted anticipatory bail, it is prayed.

4. The application is opposed by the learned Public Prosecutor. Custodial interrogation of the petitioner is essential to ascertain the details. The petitioner, who faces such grave allegations, may not be permitted to arm himself with an order of anticipatory bail when he is interrogated by the police. There are no

circumstances justifying the invocation of the jurisdiction under Section 438 Cr.P.C, submits the learned Public Prosecutor.

5. Having considered all the relevant inputs, I find merit in the opposition by the learned Public Prosecutor. This, I am satisfied, is a fit case, where the petitioner must resort to the ordinary and normal procedure of surrendering before the police or the learned Magistrate having jurisdiction. No circumstances are there to invoke the discretion under Section 438 Cr.P.C.

6. In the result, this bail application is, dismissed. Needles to say, if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously.

(R.BASANT, JUDGE)

rtr/-